

Appl. No. 10/523,650
Response dated: November 27, 2007
Reply to O.A. dated: August 31, 2007

accompanying the next Official Action acknowledge the claim for priority under 35 U.S.C. §119 and receipt of a copy of the certified copy of the priority document received from the International Bureau.

Affirmation Of Applicants Election

The outstanding Official Action articulates the restriction requirement communicated to Applicant's representatives via telephone on January 12, 2007. Specifically, the Official Action urges that Applicants must select either Group 1, drawn to claims 56, 59-63 and 84-107, or Group 2, drawn to claims 57, 58, 64-83 and 108, for examination on the merits.

The outstanding Official Action also urges that a provisional election of Group 1 with traverse was made over the telephone by Applicant's representative on February 27, 2007 and that Applicant's must affirm this election in replying to the outstanding Official Action.

Applicants note that the Second Preliminary Amendment filed February 28, 2007 included an affirmation of Applicant's election of Group 1 and was not made with traverse. In any event, Applicant's again affirm the election of Group 1 for examination on the merits without traverse. Applicants reserve all rights with regards to the non-elected claims.

The §102 Rejection Over Coover

The rejection of claims 56, 59, 60, 84-87, 89, 92, 97, 101, 102, 104, 106 and 107 under 35 U.S.C. §102(b) as being anticipated by Coover et al. (US Pat. No. 3,075,952) has been carefully considered but is most respectfully traversed in light of the following comments.

Applicants wish to begin by directing attention to MPEP § 2131 which states that to anticipate a claim, the reference must teach every element of the claim.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros.*

Appl. No. 10/523,650
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v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed.Cir. 1990).

The Official Action urges that Coover discloses a process for the solid phase continuous polymerization of polyesters according to the method recited in claim 56 of the instant application. However, Applicants respectfully submit that, contrary to the assertions in the outstanding Official Action, Coover fails to disclose at least (a) preparing a mass of polyester prepolymer granules and (b) thermal crystallization of the polyester prepolymer granules.

The Official Action urges that Coover discloses preparing a mass of polyester prepolymer granules. However, Applicants respectfully submit that Coover does not disclose granules as that term is used in the instant application and as the term is understood to one of ordinary skill in the art of polyester resins. Rather, as is evident from a careful reading of the specification of the prior art reference, Coover only discloses finely ground powder that is much smaller than and fails to read on the granules recited in claim 56.

The size of the finely ground powder used in Coover is most evident from col. 2, lines 22-24 of the reference. This section states that the particles of prepolymer are capable of completely passing through a 20 mesh screen. One of ordinary skill in the art understands that a 20 mesh screen has openings of about 800 microns (0.8 mm). Accordingly, all particles in Coover must be smaller than 800 microns in order to pass through the openings in 20 mesh screen.

To the contrary, the granules recited in claim 56 are larger than 800 microns. As indicated in, e.g., claim 97, the granules have a diameter of 1 mm to 5 mm. As indicated in, e.g., claims 96 and 100, the granules have a volume between 1 mm³ and

125 mm³. Applicants also note that many dictionaries describe the word granule as an object with a specified size of 2 to 4 mm. Accordingly, as evidenced by both the claims of the instant application and the general understanding of the term granule, Applicants respectfully submit that the granule recited in claim 56 is of a size generally larger than the finely ground particles disclosed in Coover.

That one of ordinary skill in the art of polyester resins knows that granules are larger than powders and that granules are different from powders is also established in the Rinehart reference cited in a later portion of the outstanding Official Action. Rinehart teaches that powders and granules are functionally different. Powders cannot be processed effectively using pellet/granule processing equipment due to channelling.

Applicants also submit that the assertion in the Official Action that Coover discloses particles having a size larger than 5 mm or between 3 and 5 mm represents a misreading of Coover. Column 2, lines 30-35 of Coover indicate that any particles located more than 5 mm from the surface of a bed of particles will be agitated into contact with an inert gas, not that the particles are 5 mm or larger in size. Similarly, column 5, line 50-55 indicate that the depth of a bed of polymer particles is less than 5 mm and no more than 3 mm, not that the particles are in the range of 3 to 5 mm.

In view of the above, Applicants respectfully submit that the particles of Coover having a size of 800 microns or less do not disclose the granules recited in claim 56, and therefore the Coover reference fails to disclose each and every element of claim 56. It is therefore respectfully submitted that Coover is incapable of properly supporting a §102 rejection of claim 56, and the rejection should therefore be withdrawn.

With respect to the recitation in claim 56 that the prepolymer granules are crystallized by heating to a temperature of about 140°C to about 235°C, Applicants note that the Official Action does not address this element of the claim. The Official Action merely urges that crystallized granules are fed into a horizontal reactor. In other words, the Official Action has jumped from asserting that Coover discloses preparing a mass of polyester prepolymer granules to asserting that Coover discloses the prepolymer

granules crystallized and fed into a reactor without indicating how the prepolymer granules became crystallized.

Applicants respectfully submit that a careful review of the Coover reference reveals no teaching of thermally crystallizing the prepolymer granules as recited in claim 56. Column 3, line 65 through column 4, line 11 appear to be the most relevant portion of the reference, but this portion of the reference does not disclose thermal crystallization as claimed. Coover discloses that if it is desired to crystallize the particles of the prepolymer, this may be achieved by contacting the particles with an organic volatile liquid compound or by slowly cooling the polymer before grinding (which would therefore crystallize the polymer ribbon, not the granule or powder). In the heating process disclosed in Coover and as the term, heat is applied to remove the liquid compound after crystallization, and the heating for removing the liquid compound does not cause crystallization. Further, Applicants respectfully submit that the type of heat needed to remove the liquid compound would be less than the range of heat for crystallization recited in claim 56.

In view of the above, Applicants respectfully submit that Coover fails to disclose crystallization of the granules by heating as recited in claim 56 and therefore the Coover reference fails to disclose each and every element of claim 56. It is therefore respectfully submitted that Coover is incapable of properly supporting a §102 rejection of claim 56, and the rejection should therefore be withdrawn.

Because claims 59, 60, 84-87, 89, 92, 97, 101, 102, 104, 106 and 107 each depend either directly or indirectly on claim 56, Applicants respectfully submit that these claims are also not anticipated by the Coover reference for the reasons discussed above. Accordingly, it is respectfully requested that the §102 rejection of these claims be withdrawn.

Regardless of their dependency on claim 56, Applicants also respectfully submit that several of the above noted dependent claims recite subject matter not disclosed in the Coover reference. With respect to claim 85, Applicants fail to find in Coover a disclosure of an air purge gas having a dew point less than -30°C. With respect to

claim 97, Applicants note the comments above regarding the failure of Coover to disclose a granule having a diameter between 1 mm and 5 mm. With respect to claims 101 and 102, Applicants fail to find in Coover a disclosure of crystallizing the granules in a fluidized bed crystallizer. With respect to claim 104, Applicants note the comments above regarding the failure of Cooper to disclose crystallization via heating.

The §102 Rejection Over Barkey

The rejection of claims 56, 59, 60, 84-89, 101, 102, 104, 106 and 107 under 35 U.S.C. §102(b) as being anticipated by Barkey et al. (US Pat. No. 3,497,477) has been carefully considered but is most respectfully traversed in light of the following comments.

The Barkey and Coover references have a common assignee and disclose very similar subject matter. As such, the deficiencies identified above with respect to the anticipation rejection of the claims over Coover are also present in the anticipation rejection of the claims over Barkey. That is to say, with respect to claim 56, Barkey fails to disclose at least (a) preparing a mass of polyester prepolymer granules and (b) thermal crystallization of the polyester prepolymer granules.

The Official Action urges that Barkey discloses preparing a mass of polyester prepolymer granules. However, Applicants respectfully submit that Barkey does not disclose granules as that term is used in the instant application and as the term would be understood by one of ordinary skill in the art of polyester resins. Rather, as is evident from a careful reading of the specification of the prior art reference, Barkey only discloses finely ground powder that is much smaller than and fails to read on the granules recited in claim 56.

The size of the finely ground powder used in Barkey is most evident from col. 8, lines 6-16 of the reference. This section states that the particles of prepolymer are preferably of an average size less than 600 microns, which converts to 0.6 mm and not 6 mm as alleged in the Official Action. Barkey also discloses at col. 6, lines 7-10 that the particles pass through a 20 mesh screen, which as described above, provides

openings of about 800 microns (0.8 mm). Therefore, Barkey appears to disclose particles that may be at the most just under 800 microns.

To the contrary, the granules recited in claim 56 are larger than 800 microns. As indicated in, e.g., claim 97, the granules have a diameter of 1 mm to 5 mm. As indicated in, e.g., claims 96 and 100, the granules have a volume between 1 mm³ and 125 mm³. Applicants also note that many dictionaries describe the word granule as an object with a specified size of 2 to 4 mm. Accordingly, as evidenced by both the claims of the instant application and the general understanding of the term granule, Applicants respectfully submit that the granule recited in claim 56 is of a size generally larger than the finely ground particles disclosed in Barkey.

In view of the above, Applicants respectfully submit that the particles of Barkey having a size of 800 microns or less do not disclose the granules recited in claim 56, and therefore the Barkey reference fails to disclose each and every element of claim 56. It is therefore respectfully submitted that Barkey is incapable of properly supporting a §102 rejection of claim 56, and the rejection should therefore be withdrawn.

With respect to the recitation in claim 56 that the prepolymer granules are crystallized by heating to a temperature of about 140°C to about 235°C, Applicants note that the Official Action does not sufficiently address this element of the claim. The Official Action merely urges that Barkey discloses "[p]reparing a mass of polyester granules (particles) to a crystallizer and feeding crystallized granules at a temperature in the range 175 °C - 300°C" into a reactor. The only citation provided in the Official Action for the alleged teaching of feeding the prepolymer to a crystallizer and thermally crystallizing the prepolymer is column 6, line 15 of Barkey. However, this portion of the reference describes feeding the prepolymer to the polymerizing zone where heat and inert gas are applied to polymerize the prepolymer particles. In other words, this portion of the Barkey reference is analogous to the step in claim 56 where already crystallized prepolymer granules are fed to the reactor for polymerization. This portion of the reference does not teach a crystallizer or crystallization of the prepolymer by applying

heat as alleged, and thus the Official Action has not sufficiently addressed the step in claim 56 prior to polymerization, i.e., thermal crystallization.

Applicants respectfully submit that, even when considering other portions of the Barkley reference, no teaching of thermally crystallizing the prepolymer granules as recited in claim 56 may be found. Column 7, lines 12-22 appears to be the most relevant portion of the reference, but this portion of the reference does not disclose thermal crystallization as claimed. Barkey discloses that if it is desired to crystallize the particles of the prepolymer, this may be achieved by contacting the particles with an organic volatile liquid compound. Heating is applied to remove the liquid compound after crystallization, and the heating for removing the liquid compound does not cause crystallization. Further, Applicants respectfully submit that the type of heat needed to remove the liquid compound would be less than the range of heat for crystallization recited in claim 56.

In view of the above, Applicants respectfully submit that Barkey fails to disclose crystallization of the granules by heating as recited in claim 56 and therefore the Barkey reference fails to disclose each and every element of claim 56. It is therefore respectfully submitted that Barkey is incapable of properly supporting a §102 rejection of claim 56, and the rejection should therefore be withdrawn.

Because claims 59, 60, 84-89, 101, 102, 104, 106 and 107 each depend either directly or indirectly on claim 56, Applicants respectfully submit that these claims are also not anticipated by the Barkey reference for the reasons discussed above. Accordingly, it is respectfully requested that the §102 rejection of these claims be withdrawn.

Regardless of their dependency on claim 56, Applicants also respectfully submit that several of the above noted dependent claims recite subject matter not disclosed in the Barkey reference. With respect to claim 85, Applicants fail to find in Barkey a disclosure of an air purge gas having a dew point less than -30°C. With respect to claims 101 and 102, Applicants fail to find in Barkey a disclosure of crystallizing the

granules in a fluidized bed crystallizer. With respect to claim 104, Applicants note the comments above regarding the failure of Barkey to disclose crystallization via heating.

The §103 Rejection Over Coover and Tung

The rejection of claim 90 under 35 U.S.C. §103(a) as being unpatentable over the Coover in combination with Tung et al. (US Pat. No. 4,644,049) has been carefully considered but is most respectfully traversed in light of the following comments.

As acknowledged in the Official Action, the §103 rejection of claim 90 relies upon the position that Coover discloses each and every element of claim 56 as alleged earlier in the outstanding Official Action. However, as described above, Coover fails to disclose at least two elements of claim 56. Therefore, in order to establish a proper §103 rejection, Applicants respectfully submit that the Tung reference must not only disclose the subject matter of claim 90 as alleged in the Official Action, but must also remedy the deficiencies in Coover identified above. Applicants respectfully submit that Tung fails to remedy these deficiencies, and therefore a proper §103 rejection has not been established.

Specifically, Applicants note that, with respect to teaching thermal crystallization as recited in claim 56, the abstract of Tung discloses that the prepolymer may be crystallized by exposing the prepolymer to vapor of volatile organic compounds. In fact, one of ordinary skill in the art reading Tung would be convinced to not use thermal crystallization since the crystallization via volatile organic compounds is disclosed as being an improvement over thermal crystallization. Furthermore, to the extent that Tung mentions thermal crystallization as an undesirable means of crystallization, there is no disclosure of thermal crystallization within the range of temperature recited in claim 56.

Applicants also note that Tung discloses particles of prepolymer, with no discussion as to the size of particles. Applicants respectfully submit that the particles of Tung are smaller than the granules recited in claim 56, or in the alternative, that Tung's silence as to the size of the particles results in the reference failing to disclose or suggest granules as recited in claim 56.

Appl. No. 10/523,650
Response dated: November 27, 2007
Reply to O.A. dated: August 31, 2007

In view of the above, Applicants respectfully submit that Tung fails to disclose or suggest those elements which are not disclosed or suggested in Coover, and therefore the references, either standing alone or when taken in combination, fail to disclose or suggest each and every element of claim 56. Accordingly, Tung and Coover may not properly establish a §103 rejection of claim 90 according to the guidelines set forth in MPEP §2143. Applicants therefore respectfully request that this rejection be withdrawn.

The §103 Rejection Over Rinehart and Coover

The rejection of claims 61-63, 91-94, 103 and 104 under 35 U.S.C. §103(a) as being unpatentable over Rinehart (US Pat. No. 4,876,326) in combination with Coover has been carefully considered but is most respectfully traversed in light of the following comments.

Firstly, Applicants note that the rejection of the claims over Rinehart and Coover advanced in the Official Action must include claim 56. Claims 61-63, 91-94, 103 and 104, which each depend from claim 56, cannot be considered obvious over Rinehart in view of Coover unless claim 56 is also considered obvious over Rinehart in view of Coover. Thus, for the purpose of responding this rejection, Applicants have assumed that claim 56 is included in the §103 rejection over Rinehart and Coover.

Applicants wish to direct attention to the basic requirements of a *prima facie* case of obviousness as set forth in the MPEP § 2143. This section states that to establish a *prima facie* case of obviousness, three basic criteria first must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Applicants also note MPEP §2143.01, which states in part that, if a proposed modification would render the prior art invention unsatisfactory for its intended purpose,

then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

The Official Action appears to urge that Rinehart discloses or suggest every element of claim 56 with the exception of a slightly inclined tubular reactor. The Official Action cites Coover as disclosing a slightly inclined reactor and urges it would have been obvious "to use a reactor with effective mixing of the components and shortest pathway of outgoing gases through the polymer particles". Applicants understand this statement to mean it would have been obvious to tilt the reactor of Rinehart in the manner taught in Coover in order to provide effective mixing of components in the reactor and to provide the shortest pathway for gas to pass through the polymer particles. Applicants respectfully traverse these positions on several grounds.

Firstly, Applicants note that Rinehart clearly discloses a reactor that is vertically oriented, not horizontally oriented as recited in claim 56. This is seen most clearly from col.10, lines 15-30 of Rinehart, which discusses the height of the reactor, how gravity is relied upon for the particles to flow from the top of the reactor to the bottom and that the gas passed through the reactor moves upwardly while the particles move downwardly. Accordingly, in order to modify the reactor of Rinehart to meet the limitations of claim 56, the reactor of Rinehart must be adjusted from a vertical position to a slightly inclined horizontal position (an approximately 87° rotation).

Secondly, one of ordinary skill in the art would not be motivated to make such a drastic change in the orientation of the reactor based on the motivation provided in the Official Action because such a change would not result in either advantage suggested in the Official Action. That is to say, orienting the vertical reactor of Rinehart in a horizontal fashion as disclosed in Coover will not result in more efficient mixing of components or a shorter pathway for gas to pass through the polymer particles. These positions are supported by the Declaration of Mr. Verne Rinehart, the named inventor of the Rinehart reference, submitted herewith.

Mr. Rinehart explains in his Declaration that one of ordinary skill in the art would not be motivated to make the modification proposed in the Official Action based on a

desire to increase mixing between components because such a modification is not necessary to achieve effective mixing (see Declaration, Paragraph 9). The vertical orientation and uniform cross section of the reactor in Rinehart already ensures effective mixing. In fact, this orientation is preferred over a horizontal reactor with a slight incline because it minimizes the shear force found in a rotating horizontal reactor. Minimization in shear force results in reduction in fines, and reduction in fines keeps the cost of processing the resin low, since any fines formed need to be removed before downstream processing may be conducted. Thus, not only would one of ordinary skill not be motivated to change the orientation of the reactor based on a desire to achieve effective mixing, but one of ordinary skill would also not be motivated to make this change because of the negative consequences that would result.

Mr. Rinehart further explains in his Declaration that one of ordinary skill in the art would not be motivated to make the modification proposed in the Official Action based on a desire to create the shortest pathway for the gas to pass through the polymer particles because changing the orientation of the reactor as proposed will actually prevent the gas from passing through the polymer particles altogether (see Declaration, Paragraphs 10 and 11). Rather, when oriented horizontally, the gas will only be able to pass over the bed of polymer particles. Coover acknowledges as such when disclosing that any particles located more than 5 mm from the surface of the bed must be agitated in order to come into contact with the gas (see, e.g., column 2, lines 32 and 33 and column 4, lines 53 and 54). Accordingly, one would not be motivated to modify the reactor of Rinehart based on the teaching of Coover as proposed in the Official Action in order to create a shorter path for the gas to pass through the polymer particles because in the vertical orientation of Rinehart the gas can pass through the polymer particles but in the horizontal orientation of Coover the gas will not be able to pass through the particles.

Thirdly, Applicants respectfully submit that the proposed modification would make the invention of Rinehart unsuitable for its intended purpose. That is to say, tilting the reactor of Rinehart in a horizontal fashion would cause shear agitation and the

pellets would therefore create fines, whereas elimination of fines is a primary objective of the invention disclosed in Rinehart. Mr. Rinehart explains in his Declaration that powders are normally processed in horizontal reactors, but that when using pellets it is preferred to not use horizontal rotating reactors due to the creation of undesirable fines when feeding pellets to a horizontal rotating reactor (see Declaration, paragraphs 12 and 13). Thus, Mr. Rinehart contemplated the use of pellet processing equipment that does not utilize a horizontal configuration in order to eliminate shear force and the creation of fines. To modify the invention of Rinehart as proposed in the Official Action would result in the shear force being exerted on the pellets and the creation of fines, thus making the invention unsuitable for its intended purpose.

Further, Mr. Rinehart explains in his Declaration that the use of pellets in a horizontally oriented reactor will reduce the pellets to powder form due to the shear force exerted thereon, thereby destroying the desired objective of being able to process polymers in a pellet rather than powder form (see Declaration, paragraphs 12 and 13). Thus, the modification suggested in the Official Action would further make the invention disclosed in Rinehart unsuitable for its intended purpose.

Finally, Mr. Rinehart explains in his Declaration that Coover teaches that non-frangible particles are to be avoided (Coover, col. 5, lines 30-40) while Rinehart discloses that powder is to be compacted into a non-frangible particle so it can be processed as a pellet (see Declaration, paragraph 14). Thus, one of ordinary skill in the art would not be motivated to use a process or machinery which requires that powder remain in the form of a powder (as taught in Coover) when working with non-frangible powder compacted into a pellet (as taught in Rinehart).

In view of the above, Applicants respectfully submit that the motivation statement provided in the Official Action for the modification of Rinehart based on the teaching of Coover is insufficient for purposes of establishing a §103 rejection according to the guidelines set forth in MPEP §2143. Accordingly, Applicants respectfully request that this rejection be withdrawn.

Because claims 61-63, 91-94, 103 and 104 each depend either directly or indirectly on claim 56, Applicants respectfully submit that these claims are also not obvious over the Rinehart and/or Coover references for the reasons discussed above. Accordingly, it is respectfully requested that the §103 rejection of these claims be withdrawn.

The §103 Rejection Over Coover and Duh

The rejection of claims 96-100 under 35 U.S.C. §103(a) as being unpatentable over Coover in combination with Duh (US Pat. No. 5,449,701) has been carefully considered but is most respectfully traversed in light of the following comments.

The Official Action urges that Duh discloses using prepolymer granules in the shapes of pellets, spheres, chips or cubes and that there is a minimal particle size for solid state polymerization. The Official Action appears to conclude that it would have been obvious to substitute the finely ground particles of Coover for the pellets, spheres, chips or cubes because increased surface area will cause a shift in the equilibrium of post polymerization reactions to create molecular weight increase, which makes a process more efficient.

However, Applicants note the comments above regarding the use of only finely ground particles or powder in the method and apparatus of Coover. Because Coover discloses a horizontally oriented rotating reactor, shear force will be exerted on any relatively large granules in the shape of pellets, chips, cubes or spheres placed therein and cause the creation of undesirable fines. In fact, any pellets, spheres, chips or cubes placed therein will be reduced to powders, thus making a step of creating pellets, spheres, chips or cubes worthless.

Furthermore, Coover expressly notes at col. 4, lines 69-73 that particles having a size larger than 20 mesh (i.e., 0.8 mm) are undesirable for use in the method and apparatus of Coover because they tend to introduce discoloration and slow down the rate of molecular weight buildup. Thus, Applicants respectfully submit that, with respect to modifying the invention of Coover to use larger particles based on the teachings of

Duh, the Coover reference clearly teaches away from any such modification. One of ordinary skill in the art reading the Coover reference will readily understand that using larger particle sizes is undesirable.

Accordingly, because one of ordinary skill in the art would not be motivated to increase the size of particles used in Coover based on express statements made in Coover, Applicants respectfully submit that the Coover reference may not be properly modified based on the teachings of Duh as proposed in the outstanding Official Action. Applicants therefore respectfully submit that a proper §103 rejection according to the guidelines set forth in MPEP §2143 has not been established and the rejection should therefore be withdrawn.

The §103 Rejection Over Coover and Scannapieco

The rejection of claim 95 under 35 U.S.C. §103(a) as being unpatentable over Coover in combination with Scannapieco (US Pat. No. 5,449,701) has been carefully considered but is most respectfully traversed in light of the following comments.

The Official Action urges that Scannapieco discloses using granules having carboxyl end group content that is less than 30% and that it would be obvious to use these granules in the method and apparatus of Coover in order to achieve a high rate of polymerization.

However, Applicants note the comments above regarding the use of only finely ground particles or powder in the method and apparatus of Coover. Because Coover discloses a horizontally oriented rotating reactor, shear force will be exerted on any relatively large granules and cause the creation of undesirable fines. In fact, any granules placed therein will be reduced to powders, thus making a step of creating granules worthless.

Furthermore, Coover expressly notes at col. 4, lines 69-73 that particles having a size larger than 20 mesh (i.e., 0.8 mm) are undesirable for use in the method and apparatus of Coover because they tend to introduce discoloration and slow down the rate of molecular weight buildup. Thus, Applicants respectfully submit that, with respect

Appl. No. 10/523,650
Response dated: November 27, 2007
Reply to O.A. dated: August 31, 2007

to modifying the invention of Coover to use granules as taught in Scannapieco, the Coover reference clearly teaches away from any such modification. One of ordinary skill in the art reading the Coover reference will readily understand that using larger granules is undesirable.

Accordingly, because one of ordinary skill in the art would not be motivated to use the granules of Scannapieco in the method and apparatus of Coover, Applicants respectfully submit that a proper §103 rejection according to the guidelines set forth in MPEP §2143 has not been established and the rejection should therefore be withdrawn.

Failure To Address Claim 105

Finally, Applicants note that none of the rejections set forth in the outstanding Official Action address claim 105. Applicants would appreciate clarification in the next Official Action whether claim 105 is considered to recite allowable subject matter or if claim 105 should have been included in one of the rejections set forth in the outstanding Official Action.

Appl. No. 10/523,650
Response dated: November 27, 2007
Reply to O.A. dated: August 31, 2007

Conclusion

In view of the above comments and further amendments to the claims, favorable reconsideration and allowance of all of the claims now present in the application are most respectfully requested.

Respectfully submitted,

BACON & THOMAS, PLLC

By: 
Scott A. Brairton
Registration No. 55,020

625 Slaters Lane, 4th Fl.
Alexandria, Virginia 22314
Phone: (703) 683-0500
Facsimile: (703) 683-1080

SAB
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November 27, 2007